

FACT SHEET

Federal Fair Housing Amendments Act of 1988 and persons with disabilities

What type of actions are prohibited?

- * Discriminatory sales or rental practices on the basis of disability
- * Discriminatory terms, conditions, privileges or services, on the basis of disability
- * Discriminatory advertisements, statements, and notices on the basis of disability
- * Discriminatory representation of the availability of dwellings on the basis of disability
- * Discriminatory brokerage services on the basis of disability
- * Discriminatory real estate transactions (e.g., purchasing of a loan) on the basis of disability
- * Blockbusting

Who is covered?

The provisions cover most landlords and persons/businesses/organizations engaged in real estate transactions. Exceptions include 1) the sale or rental of any single family house by an owner if the owner does not own or have any interest in more than three (3) single family houses at any one time; 2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as her or his residence; 3) certain housing operated and controlled by religious organizations; and 4) certain housing owned and operated by private clubs for other than commercial purposes.

Reasonable Accommodation

What does the law require in terms of reasonable accommodations?

No person may refuse to make reasonable accommodations in rules, policies, practices, or services in real estate transactions when the accommodation is necessary for a person with a disability to use and enjoy a dwelling unit, including public and common use areas.

What are examples of reasonable accommodations?

Example 1: A blind applicant for rental housing wants to live in a dwelling unit with a guide dog. The building has a "no pets" policy. It is a violation for the owner or manager of the apartment complex to refuse to permit the applicant to live in the apartment with a guide dog because without the guide dog, the blind person will not have an equal opportunity to use and enjoy a dwelling.

Example 2: Progress Gardens is a 300-unit apartment complex with 450 parking spaces which are available to tenants and guests of Progress Gardens on a "first-come, first served" basis. John applies for housing in Progress Gardens. John is mobility impaired and is unable to walk more than a short distance and therefore requests that a parking space near his unit be reserved for him so he will not have to walk very far to get to his apartment. It is a violation for the owner or manager of Progress Gardens to refuse to make this accommodation. Without a reserved space, John might be unable to live in Progress Gardens at all or, when he has to park in a space far from his unit, might have great difficulty getting from his car to his apartment unit. The accommodation therefore is necessary to afford John an equal opportunity to use and enjoy a dwelling. The accommodation is reasonable because it is feasible and practical under the circumstances.

Modification of Existing Facilities

What does the law require?

No person may refuse to permit reasonable modifications of existing premises, if the proposed modifications may be necessary to afford the person with a disability full enjoyment of the premises of a dwelling.

The cost of the modification is at the expense of the person with a disability, although the owner/landlord may voluntarily pay for the modification.

Can a landlord require restoration of the premises when a tenant leaves?

In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

Example 1: A tenant with a disability asks his or her landlord for permission to install grab bars in the bathroom at his or her own expense. It is necessary to reinforce the walls with blocking between studs in order to affix the grab bars. It is unlawful for the landlord to refuse to permit the tenant, at the tenant's own expense from making the modifications necessary to add the grab bars. However, the landlord may condition permission for the modification on the tenant agreeing to restore the bathroom to the condition that existed before the modification, reasonable wear and tear excepted. It would be reasonable for the landlord to require the tenant to remove the grab bars at the end of the tenancy. The landlord may also reasonably require that the wall to which the grab bars are to be attached be repaired and restored to its original condition, reasonable wear and tear excepted. However, it would be unreasonable for the landlord to require the tenant to remove the blocking since the reinforced walls will not interfere in any way with the landlord's or the next tenant's use and enjoyment of the premises and may be needed by some future tenant.

Example 2: An applicant for rental housing has a child who uses a wheelchair. The bathroom door in the dwelling unit is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway at the applicant's own expense. It is unlawful for the landlord to refuse to permit the applicant to make the modification. Further, the landlord may not, in usual circumstances, condition permission for the modification on the applicant paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises.

Can a landlord require an extra deposit to guarantee restoration of the premises?

The landlord may not increase for persons with disabilities any customarily required security deposit. However, where it is necessary in order to ensure that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

What other conditions are permissible?

A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications, as well as reasonable assurances that the work will be done in a workmanlike manner, and that any required building permits will be obtained.

New Construction Requirements

What dwellings are covered by the construction requirements?

"Buildings consisting of four (4) or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four (4) or more dwelling units" for first occupancy after March 13, 1991, are covered by the new construction requirements.

First occupancy is determined on a building-by-building basis, not on a project-by-project basis. Types of dwelling units covered include mobile home parks, trailer courts, condominiums, cooperatives, and time-sharing properties.

The Act's accessibility requirements only apply to new construction. Existing facilities that are converted to dwelling units are not subject to the Act's accessibility requirements.

What are the design standards?

The Department of Housing and Urban Development (HUD) has published Final Design Guidelines (see Federal Register, 24 CFR, Vol. 56, No. 44, March 6, 1991, page 9497).

The Act requires design and construction to meet the seven (7) design requirements listed below.

1. An accessible building entrance on an accessible route that can be used by a person using a wheelchair must be provided.

Dwellings with elevator(s) must be designed and constructed to have at least one building entrance on an accessible route, regardless of terrain or unusual characteristics of the site.

Dwellings without elevator(s) may be exempt from providing an accessible route to that building, if certain terrain or unusual characteristics of the site exist.
2. Public and common use areas of the dwellings must be readily accessible to and usable by persons with disabilities.
3. Doors designed to allow passage into and within all premises, usable to a person in a wheelchair, must be provided.
4. An accessible route must be provided into and through the covered dwelling unit to allow passage by a person in a wheelchair. In covered multi-story dwelling units with elevators, only the story served by the building elevator must comply, provided that certain essential elements such as a bathroom or powder room are accessible.
5. All light switches, electrical outlets, thermostats and other environmental controls requiring access must be provided at accessible locations.
6. Bathroom walls must provide reinforcements to allow for later installation of grab bars and shower seats.
7. Kitchens and bathrooms must be designed to allow an individual in a wheelchair to maneuver about the space.

Enforcement

Who enforces the Fair Housing Amendments Act?

The law is enforced by the U.S. Department of Housing and Urban Development (HUD).

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
500 Ala Moana Blvd., Suite 3A
Honolulu, HI 96813-4916
Phone: (808) 522-8182, Ext. 269 (V), (808) 522-8193 (T)
1(800) 374-3247 (Toll free)
(808) 522-8194 (Fax)
Web site: www.hud.gov

The State law, §515, Hawaii Revised Statutes, Discrimination in Real Property Transactions, also prohibits discrimination against persons with disabilities. Section 515, HRS, is enforced by the Hawaii Civil Rights Commission. State law is substantially equivalent to federal law. Thus, HUD has a workshare agreement with the Hawaii Civil Rights Commission to investigate complaints filed under the Federal Fair Housing Amendments Act. Individuals are encouraged to file their HUD complaint simultaneously with the Hawaii Civil Rights Commission at

Hawaii Civil Rights Commission
830 Punchbowl Street, Room 411
Honolulu, HI 96813
Phone: (808) 586-8636 (V), (808) 586-8692 (T)
(808) 586-8655 (Fax)
E-mail: info@hcrc.org
Web site: www.hawaii.gov/hcrc/

DISABILITY AND COMMUNICATION ACCESS BOARD

Oahu

(808) 586-8121 (Voice/TTY)
(808) 586-8129 (FAX)

E-mail

accesshi@aloha.net

Web Site

www.hawaii.gov/health/dcab/

Neighbor Islands call toll free

Maui

984-2400, ext. 6-8121# (Voice)

Molokai & Lanai

1(800) 468-4644, ext. 6-8121# (Voice)

Kauai

274-3141, ext. 6-8121# (Voice)

Big Island

974-4000, ext. 6-8121# (Voice)